

13

THE STATE LEGISLATURE

13.1 INTRODUCTION

You know that India is a Union of States. It means that there is one Central or Union Government and several State Governments. At present there are 25 States in the Indian Union. Each one of them has a Legislature.

You have already learnt about the Union Legislature, i.e. the Parliament, in lesson No.12. In this lesson, you will read about the composition, powers and functions of the State Legislature. The State Legislature consists of a Governor, Legislative Assembly (Vidhan Sabha) and Legislative Council (Vidhan Parishad). The Vidhan Parishad does not exist in all States. Only some of the States have bi-cameral legislature having the Vidhan Sabha as well as Vidhan Parishad. Most States have only one House, namely Vidhan Sabha. The Parliament is empowered to set up or abolish Vidhan Parishad in a State.

13.2 OBJECTIVES

After reading this lesson, you will be able to :

- recognise that there is directly elected Vidhan Sabha in each State;
- describe the composition of Vidhan Sabha and Vidhan Parishad;
- explain the procedure for creation and abolition of Vidhan Parishad;
- recognize the need for representation of various interests in the Upper House of State Legislature;
- explain the powers and functions of the State Legislature; and
- compare the powers and functions of both Houses of the State Legislature and recognise their relative importance.

13.3 COMPOSITION OF THE STATE LEGISLATURE

Each State has a Legislative Assembly (Vidhan Sabha) which is a popularly elected House. Its members are elected by the people of the State on the basis of universal adult franchise. Some of the States have Vidhan Parishad (Legislative Council) also. In the States where there

are two Houses, 'Vidhan Sabha' is known as the lower House and 'Vidhan Parishad' as the Upper House. We shall see in section 13.8 of this lesson that Vidhan Sabha is far more powerful than Vidhan Parishad.

13.4 COMPOSITION OF VIDHAN SABHA (LEGISLATIVE ASSEMBLY)

There is Vidhan Sabha in every State. It represents the people of the State. The members of Vidhan Sabha are directly elected by the people on the basis of universal adult franchise from the territorial constituencies in the State.

The Constitution envisages that the members of Vidhan Sabha shall not be more than 500 and not less than 60. However, because of special provisions in the Constitution, the number of members of the Assemblies of Goa, Sikkim and Mizoram is 40, 32 and 40 respectively.

The following table shows the membership of the Legislative Assemblies of different States.

**Table 13.1 Number of Members in the Legislative Assemblies
(Vidhan Sabhas) of Different States**

S.No.	Name of the State	No. of Seats in the Assembly	No. of Seats Reserved for * Schedule Castes	Scheduled Tribes
1.	Andhra Pradesh	294	39	15
2.	Arunchal Pradesh	60	-	59
3.	Assam	126	8	16
4.	Bihar	243	39	-
5.	Goa	40	01	-
6.	Gujarat	182	13	26
7.	Haryana	90	17	-
8.	Himachal Pradesh	68	16	03
9.	Jammu and Kashmir	87	07	-
10.	Karnataka	224	33	02
11.	Kerala	140	13	01
12.	Madhya Pradesh	230	33	41
13.	Maharashtra	288	18	22
14.	Manipur	60	01	19
15.	Meghalaya	60	-	55
16.	Mizoram	40	-	39
17.	Nagaland	60	-	59
18.	Orissa	147	22	34
19.	Punjab	117	29	-
20.	Rajasthan	200	33	24
21.	Sikkim	32	02	12
22.	Tamil Nadu	234	42	03
23.	Tripura	60	07	20
24.	Uttar Pradesh	403	89	-
25.	West Bengal	294	59	17
26.	Chattisgarh	90	10	34
27.	Jharkhand	81	09	28
28.	Utranchal	70	12	03
1.	Delhi	70	13	-
2.	Pondicheri	30	05	-

The Governor of the State has the power to nominate one member of Anglo-Indian Community if this Community is not adequately represented in Vidhan Sabha. Some seats are also reserved for Scheduled Castes and Scheduled Tribes. The tenure of Vidhan Sabha is five years but the Governor can dissolve it before the completion of its term on the advice of the Chief Minister; or it may be dissolved by the President in case of constitutional breakdown. In case of proclamation of emergency (under article 352) the Parliament can extend its term for a period not exceeding one year at a time. But such extension will not continue beyond six months after the proclamation has ceased to operate.

1. Qualifications for the Membership of Vidhan Sabha

In order to become a member of Vidhan Sabha a person must:

- (i) be a citizen of India;
- (ii) have attained the age of 25 years;
- (iii) must be listed in the voter's list;
- (iv) must not hold any office of profit i.e. should not be a government servant.
- (v) must not be insolvent or lunatic; and
- (vi) possess such other qualifications as prescribed under any law made by the Parliament.

The members of Vidhan Sabha elect their Speaker (who presides over the house) and Deputy Speaker. The Speaker conducts the proceedings of the House. The Deputy Speaker presides over the meetings during the absence of the Speaker. Their powers and functions are similar to those of Speaker and the Deputy Speaker of the Lok Sabha. He can exercise his casting vote. The Speaker maintains order in the House, allows members to speak and ask questions. He puts bills and other measures to vote and announces the result of the voting. The Speaker does not ordinarily vote at the time of voting. However, he may have to cast a casting vote.

Casting vote is exercised by the Presiding Officer of the legislative assembly in case of a tie only. A tie means equal number of members have voted in favour and against a bill or resolution.

INTEXT QUESTIONS 13.1

Fill in the blanks with suitable words/figures:

1. India is a Union of _____ States. (18, 21, 25)
2. The Governor of a State is an integral part of the _____. (Parliament, State Legislature)
3. The minimum age for being a member of Vidhan Sabha is _____ years. (21, 25, 30)
4. The Governor of a State nominates one member of _____ in Vidhan Sabha. (Scheduled Caste, Scheduled Tribe, Anglo-Indian Community)
5. The tenure of Vidhan Sabha is _____ years. (4,5,6)
6. Casting vote is exercised by the _____. (Governor of the State, Chief Minister of the State, Presiding Officer of the Legislature)

13.5 COMPOSITION OF THE VIDHAN PARISHAD (LEGISLATIVE COUNCIL)

Vidhan Parishad is the Upper House of the State Legislature. It is not in existence in every State. Some States have bicameral legislature and some States have only one chamber. At present five States viz. Uttar Pradesh, Bihar, Karnataka, Maharashtra and Jammu & Kashmir have Vidhan Parishad while, remaining 23 States have one house, i.e. Vidhan Sabha.

The Parliament can create or abolish Vidhan Parishad by passing a resolution to this effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting. This is done only on the request of Vidhan Sabha of the State concerned.

The size of the Vidhan Parishad of a State is based on the total strength of its Vidhan Sabha. According to article 171 of the Indian Constitution, the total number of members in the Vidhan Parishad of a State should not exceed one-third of the total number of members of the Vidhan Sabha but this number should not be less than 40. The Jammu and Kashmir is an exception where Vidhan Parishad has 36 members.

The Vidhan Parishad is partly elected and partly nominated. Most of the members are indirectly elected in accordance with the principle of proportional representation by a single transferable vote. The composition is as follows:

- (i) One-third of the total number of members of the Vidhan Parishad are elected by the electorates consisting of members of municipalities, district boards and other local authorities in the State;
- (ii) One-twelfth members are elected by the electorate consisting of graduates of the State with a standing of three years;
- (iii) One-twelfth members are elected by the electorate consisting of teachers of educational institutions within the State not lower in standard than that of a secondary school who have teaching experience of at least three years;
- (iv) One-third members are elected by the members of the Vidhan Sabha (Legislative Assembly) of the State from amongst the persons who are not members of the Assembly; and
- (v) The remainder, i.e. one-sixth members are nominated by the Governor from amongst the persons having special knowledge or practical experience in the sphere of literature, science, art, co-operative movement and social service.

The Vidhan Parishad is a permanent chamber like the Rajya Sabha (the Council of States). It is never dissolved. The tenure of its elected and nominated member is six years. One-third of its member retire after every two years. The retired members are eligible for re-election. In case of vacancy arising out of resignation, death, or other reason, bye-election is held for the remaining period of such members. The following table shows the strength of Vidhan Parishad in different States.

Membership of the Legislative Council (Vidhan Parishad) in Different States

Name of the State	Total Number of Members
1. Bihar	96
2. Jammu and Kashmir	36
3. Karnataka	75
4. Maharashtra	68
5. Uttar Pradesh	108

Qualifications for the Membership of Vidhan Parishad

He/she must:

- (i) be a citizen of India;
- (ii) have attained the age of 30 years;
- (iii) be a registered voter in the State;
- (iv) not be insolvent or lunatic;
- (v) not hold an office of profit; and
- (vi) possess such other qualifications as prescribed under any law made by the Parliament.

The business of Vidhan Parishad is conducted by the Chairman, who is elected from amongst its members. He presides over the meetings and maintains discipline and order in the House. He can exercise his casting vote. In his absence, Deputy Chairman presides over the House. He is also elected by the members of the Parishad from amongst themselves.

Disqualifications for membership of a State Legislature are similar to the disqualifications relating to membership of either House of the Parliament. (You have already read about the disqualifications in Lesson No.12)

The State Legislature must meet at least twice a year and the interval between two sessions should not be more than six months.

The Governor summons and prorogues the sessions of the State Legislature. He addresses the Vidhan Sabha or both Houses (if there is bicameral legislature) at the commencement of the first session after each general election and at the commencement of the first session of the year. This address reflects the policy statement of the government which is discussed in the legislature.

You have already read about the powers, privileges and immunities of the Parliament and its members in Lesson No.12. The privileges and immunities of the State Legislature and their members are similar to that of the Parliament and its members.

INTEXT QUESTIONS 13.2

Fill in the blanks with suitable words/figures:

1. The minimum age for membership of Vidhan Parishad is _____ years. (25,30,35)
2. The tenure of members of Vidhan Parishad is _____ years. (4,5,6)
3. The Governor of a State nominates _____ members of Vidhan Parishad. (1/3, 1/6, 1/8)
4. One-third members of the Vidhan Parishad retire after every _____ years. (2, 4, 6)
5. The _____ is empowered to create or abolish the Vidhan Parishad.
(President, Governor, Parliament)
6. Bi-cameral Legislature is in existence in _____. (Punjab, Haryana, Uttar Pradesh)

13.6 POWERS AND FUNCTIONS OF THE STATE LEGISLATURE**I. Law-making Function**

The primary function of the State Legislature, like the Union Parliament, is of law-making.

The State Legislature is empowered to legislate on the subjects listed in the State and Concurrent lists. The bill which contains the text of the law is placed before the legislature for its consideration.

Bills are of two types — ordinary bills and money bills. Ordinary bills can be introduced in either of the houses (if the State Legislature is bi-cameral) but money bill is introduced in the Vidhan Sabha first. After the bill is passed by both houses, it is sent to the Governor for his assent. The Governor can send back the bill for reconsideration. When this bill is passed again by the legislature, the Governor has to give his assent. The procedure of law-making is the same as it is in the Union legislature which you have already learnt in Lesson No. 12.

You have read that if the Parliament is not in session and there is a necessity of certain law, the President issues ordinance. Similarly, the Governor can issue an ordinance on the State subjects. The ordinances are practically as good as laws, so long as they remain in force. The ordinances issued are laid before the State Legislature when it reassembles. The legislature may replace it by a regular law within six weeks from the date of reassembly. It ceases to be in operation after the expiry of six weeks from reconvening of legislature. The governor can annul or withdraw it before the approval of the legislature.

2. Financial Powers

The State Legislature keeps control over the finances of the State. A money bill is introduced in the Vidhan Sabha first. The money bill includes authorisation of the expenditure to be incurred by the government, imposition or abolition of taxes, borrowings, etc. The bill is introduced by a minister on the recommendations of the Governor. As such, the money bill cannot be introduced by a private member. The Speaker of the Vidhan Sabha certifies that a particular bill is a money bill or not.

After a money bill is passed by the Vidhan Sabha, it is sent to the Vidhan Parishad. It has to return this bill within 14 days with its recommendations. The Vidhan Sabha may either accept or reject the recommendations. The bill is deemed to have been passed by both Houses. After this stage, the bill is sent to the Governor for his assent. The Governor cannot withhold his assent.

3. Control over the Executive

You have studied that India has adopted parliamentary system of government both at the Centre and State level. The Chief Minister and other ministers are members of the State Legislature. If a non-member is made a Minister, he has to acquire the membership of the legislature within six months, otherwise he ceases to be a Minister after six months. Like the Union legislature, the State legislature keeps control over the Executive. The Council of Ministers is responsible to the Vidhan Sabha collectively and remains in office till it enjoys the confidence of the Vidhan Sabha. It is removed if the Vidhan Sabha passes a resolution against the government. Rejection of a government bill or budget also amounts to lack of confidence of legislature.

In addition to no-confidence motion, the legislature keeps check on the government by asking question and supplementary questions; placing adjournment motion; calling attention motion and special motions, etc. which have been already explained in Lesson No.12.

4. Electoral Functions

The elected members of the Vidhan Sabha are members of the Electoral College for the election of the President of India. Thus they have a share in the election of the President of the Republic. The members of the Vidhan Sabha also elect members of the Rajya Sabha from their respective states. One-third members of the Vidhan Parishad (if it is in existence in the State) are also elected by the members of the Vidhan Sabha.

5. Constitutional Functions

You have learnt about the amendment of the Constitution in Lesson no. 12. In the third method which makes our Constitution a rigid one, the Constitution is amended with special majority of each House of the Parliament and ratification by not less than half of the States. The resolution for the ratification is passed by State legislatures with simple majority. However, a Constitutional amendment cannot be initiated by the State Legislature.

INTEXT QUESTIONS 13.3

(A) Fill in the blanks with suitable words/figures:

1. State Legislature cannot legislate on the subjects listed in the _____ list. (Union, State, Concurrent list).
2. Money Bill is introduced in the State Legislature on the recommendation of the _____. (President, Governor, Chief Minister.)
3. Members of the Rajya Sabha are elected by the _____ of the State. (Municipal bodies, Vidhan Sabha, Vidhan Parishad)
4. The Vidhan Parishad has to return the Money Bill within _____ days. (14, 30, 90)
5. The Council of Ministers remain in office till it enjoys the confidence of the _____. (Governor, Vidhan Sabha, Vidhan Parishad).

(B) Answer the following questions:

1. Who certifies the nature of the bill in the State Legislature?
2. Who has the power to issue an ordinance in the State?
3. Who are the members of the Electoral College for the election of the President of India?

13.7 LIMITATIONS ON THE POWERS OF THE STATE LEGISLATURE

Although State Legislature can make a law on the subject listed in the Concurrent List but in case a law passed by the State Legislature is in conflict with the law passed by the Parliament, the State law is not applied to the extent it is in conflict with the Union law.

Governor of the state can reserve his assent to a bill for the consideration of the President. It is compulsory in case the powers of the High Court are being lessened. In some case, prior approval of the President for introducing the bill in the legislature is essential such as for imposition of restrictions on the freedom of trade and commerce within the State or with other States.

If an emergency is proclaimed (under Article-352), the Parliament can legislate on any matter listed in the State List. In case of failure of the Constitutional machinery (Article 356), the Parliament exercises the powers of the State-Legislature.

The Parliament can also make law on a subject of the State List in order to carry on international responsibility. If the Rajya Sabha adopts a resolution by two-thirds majority to this effect, on its own or at the request of two or more States, the Parliament can enact laws on a specified subject of the State List.

Fundamental Rights also impose limitations on the powers of the State-Legislature. It cannot make laws which violate the rights of the people. Any law passed by the State-Legislature can be declared void by the High Court or the Supreme Court if it is found unconstitutional as violative of the fundamental rights.

INTEXT QUESTIONS 13.4

Fill in the blanks with suitable words:

1. The Governor can reserve his assent for the consideration of the _____ (Prime Minister, President, Speaker of the Lok Sabha)
2. The Parliament can legislate on a subject of State list if such a resolution is adopted by the _____ (Lok Sabha, Rajya Sabha, Supreme Court).

13.8 COMPARISON OF THE TWO HOUSES OF THE STATE LEGISLATURE

Like the Lok Sabha Vidhan Sabha, occupies a dominant position. Vidhan Parishad enjoys less powers as compared to the powers of Vidhan Sabha even in relation to ordinary bills. The Rajya Sabha at the Centre enjoys equal powers in all legislative matters except on money bills but Vidhan Parishad enjoys even less powers as compared to the Rajya Sabha.

The relative position of Vidhan Sabha and Vidhan Parishad is as under:

1. In Relation to Ordinary Bills

In the case of the Parliament, if there is a disagreement between the two Houses over an ordinary bill, the President summons a joint sitting of both Houses and if the bill is passed there by the majority of votes, the bill is taken as passed by both Houses of the Parliament. But this provision of joint sitting does not exist in the States.

Although an ordinary bill can originate in either House of the State legislature, yet both Houses have unequal powers. If a bill is passed in the Vidhan Sabha, it is transmitted to the Vidhan Parishad for consideration. When it is passed by the Vidhan Parishad without any amendment, the bill is sent to the Governor for his assent. In case, the bill is (a) rejected by the Parishad or (b) more than three months elapse without the bill being passed by the Parishad, or (c) the bill is passed with amendments to which the Vidhan Sabha does not agree, the Vidhan Sabha may pass the bill again in the same or in the subsequent session. After that the bill is again sent to the Vidhan Parishad. If the Vidhan Parishad does not return the bill within a period of one month, the bill is deemed to have been passed by both Houses of the State Legislature and is sent to the Governor for his assent. Thus the Vidhan Parishad can delay the bill for a maximum period of four months. On the other hand, if the bill is first passed by the Vidhan Parishad and rejected by the Vidhan Sabha, the bill is rejected and cannot become a law.

2. In Relation to Money Bills

Like in the Lok Sabha, Money Bill is introduced in the Vidhan Sabha first. It cannot be initiated in the Vidhan Parishad. Like Speaker of the Lok Sabha, the Speaker of the Vidhan Sabha certifies whether a particular bill is a money bill or not. After the bill is passed in the Vidhan Sabha, it is sent to the Vidhan Parishad. The Vidhan Parishad gets 14 days' time to consider the bill. If the Parishad passes the bill, it is sent to the Governor for his assent. If the bill is not returned by the Vidhan Parishad within 14 days, it is deemed to have been passed by the Vidhan Parishad. If it suggests certain changes in the bill and sends it back to Vidhan Sabha, the Lower House may accept or reject the changes suggested by the Parishad. The bill is then sent to the Governor for his assent who is bound to give his assent.

3. Control Over the Executive

The Council of Ministers is responsible to the Vidhan Sabha only and remains in office so long as it enjoys the confidence of the Assembly (Vidhan Sabha). Although members in the Vidhan Parishad can ask questions, introduce adjournment motion calling attention notice, etc., yet the Vidhan Parishad cannot censure the government.

4. Electoral Power

Only the elected members of the Vidhan Sabha are entitled to participate in the election of the President of India. The members of the Vidhan Sabha do so in their capacity as the members of the Electoral College. But the members of the Vidhan Parishad are not entitled to vote in the election of the President.

From the above observations, it is clear that the Vidhan Parishad is less powerful and has become a secondary chamber but the Vidhan Parishad is not superfluous. It serves as a check on hasty legislation made by the Vidhan Sabha by highlighting the short-comings or defects of the bill. It lessens the burden of the Vidhan Sabha, as some bills are initiated in the Vidhan Parishad. Its members are elected indirectly and some are nominated.

In the Vidhan Parishad, representation is given to various interests, who could help in the legislation and keeping control over the Executive because of their maturity and experience in their specific field. The Vidhan Parishad normally consists of eminent persons of high calibre and they serve different interests.

INTEXT QUESTION 13.5

Fill in the blanks with suitable words:

1. The Vidhan Parishad can delay the ordinary bill for a maximum period of _____ months. (one, two, three, four)
2. The Governor _____ withhold assent to the Money bill. (can, cannot)
3. The Vidhan Sabha _____ censure the Council of Ministers. (can, cannot)

WHAT YOU HAVE LEARNT

The State Legislature consists of the Governor, the Vidhan Parishad and the Vidhan Sabha. In most of the States, the Vidhan Parishad is not in existence. At present, it is in existence in Uttar Pradesh, Bihar, Maharashtra, Karnataka, Jammu and Kashmir. The Parliament is empowered to set up or abolish the Vidhan Parishad in a State.

The Vidhan Parishad is partly indirectly elected and partly nominated. It is a permanent chamber like the Rajya Sabha. It is never dissolved. The tenure of its members is six years. One-third members retire after every two years.

The minimum age for the membership of the Vidhan Parishad is 30 years, while it is 25 years for Vidhan Sabha. Members of the Vidhan Sabha are directly elected by the people of the State on the basis of Universal adult franchise. Its tenure is five years, but the Governor can dissolve it earlier on the advice of the Chief Minister. In case of Constitutional breakdown it may be dissolved by the President. The powers of the State Legislature are law-making, control over the finances, and the executive, electoral functions, constitutional functions, etc.

The Vidhan Sabha occupies a dominant position. The Vidhan Parishad enjoys less powers as compared to the Vidhan Sabha in relation to ordinary bills, money bills, control over the Executive, power in regard to the election of the President, etc.

TERMINAL EXERCISES

1. Describe the composition of the Vidhan Sabha.
2. How is the Vidhan Parishad constituted?
3. Describe the powers and functions of the State-Legislature.
4. Mention the limitations on the powers of the State-Legislature.
5. Compare the powers of the Vidhan Parishad with those of the Vidhan Sabha.

ANSWERS

Intext Questions

- 13.1
1. 25 States
 2. State Legislature
 3. 25 years
 4. Anglo-Indian
 5. 5 years
 6. Presiding Officer of the Legislature
- 13.2
1. 30 years
 2. 6 years
 3. 1/6
 4. 2 years
 5. Parliament
 6. Uttar Pradesh
- 13.3 (A)
1. Union
 2. Governor
 3. Vidhan Sabha
 4. 14 days
 5. Vidhan Sabha
- 13.3 (B)
1. Speaker of the Vidhan Sabha
 2. Governor of a State
 3. Elected members of the Parliament and the Vidhan Sabha.
- 13.4
1. President
 2. Rajya Sabha
 3. High Court of the State
 4. Union Parliament
- 13.5
1. Three
 2. Cannot
 3. Can

HINTS FOR TERMINAL EXERCISES

1. Please refer to Section 13.4
2. Please refer to Section 13.5
3. Please refer to Section 13.6
4. Please refer to Section 13.7
5. Please refer to Section 13.8